



Submission to the

Civilian Secretariat for Police

On the

The Firearms Control Amendment Bill (2015)

The Southern African Catholic Bishops' Conference, through its Parliamentary Liaison Office, wishes to take the opportunity to make comment on the above Bill.

Background and Motivation for the Catholic Church's Engagement with this Bill.

The Roman Catholic Church has, over the years, taken an increasingly strong stand on the manufacture, sale and proliferation of small arms and handguns.

The *Justice and Peace Commission* of the Vatican, in its 1994 publication 'The International Arms Trade,' calls on every nation and state "to impose strict control on the sale of handguns and light weapons. Limiting the purchase of such arms would not infringe on the rights of anyone. The more weapons there are in circulation, the more likely it would be for criminals and terrorists to get their hands on them."¹

The *Catechism of the Catholic Church*, article 2316, says: "The production and the sale of arms affect the common good of nations and the international community. Hence authorities have the right and duty to regulate them. The short term pursuit of private or collective interest cannot legitimate undertakings that promote violence and conflict among nations and compromise the international juridical order."²

The *Compendium of the Social Doctrine of the Church*, also an official compilation, states quite clearly in article 511. "Appropriate measures must be taken to control the production, sale, importation and exportation of small arms and light weapons, armaments that facilitate many outbreaks of violence to occur."³

In the traditional mode of interpreting statutes and policies, Church jurisprudence holds that what applies to the greater also applies to the lesser. Hence what applies to sale of arms at national and international levels for heavy arms would apply to small arms.

In both instances the principles of responsibility for protecting life and the reduction of instruments that cause harm to life, would apply in discerning policies.

One example of that broad principle can be seen in the statement of the United States Conference of Catholic Bishops. In their November 2000 Pastoral Statement in section 5 of the chapter dealing with Policy Foundations and Directions, they say: "As Bishops, we support measures that control the sale and use of firearms and make them safer...especially efforts that prevent their unsupervised use by children and anyone other than their owner...and we reiterate our call for sensible regulation of handguns. However we believe that in the long run and with few exceptions...i.e.: police officers, military use...handguns should be eliminated from our society."⁴

We mention these sources at length merely to underline the seriousness with which the Church views this matter and the degree to which it has become a part of the ordinary teaching of the Church.

Applying these general principles, the Roman Catholic Church has offered the following recommendations to those considering issues pertaining to firearms.

1. Support measures that control the sale and use of firearms.
2. Support measures that make guns safer (especially efforts that prevent their unsupervised use by children and anyone other than the owner).
3. Call for sensible regulation of handguns.
4. Support legislative efforts that seek to protect society from the violence associated with easy access to deadly weapons, including assault weapons.

5. Make a serious commitment to confront the pervasive role of addiction and mental illness in crime.
6. As in all policy questions, the Church raises the question around the impact of such policies on the poor and marginalised.

Recommendations

In light of the above, and acknowledging important studies which indicate that there is a correlation between stricter gun laws and a reduction of gun related deaths, the SACBC makes the following recommendations.

(Note on the Annotation: The clause under discussion in the Amendment Bill is mentioned first with the corresponding section in the Principal Act identified in brackets thereafter.)

A. General

We wish to note our overall support for this Bill, which we believe is largely another step in the right direction for reducing and controlling the use and misuse of firearms in our country.

B. Matters pertaining to the oversight of firearms by SAPS members.

Clause 24 (s124)

We strongly support the appointment of DFOs at all police stations and agree with the oversight functions for the DFO. Our main concern is that the resources, including sufficient financial resources to enable the DFO to fulfil the functions adequately, be provided. There are many reports of inefficiencies in the application and registration process at police station level, and we fear that if this is not taken care of and given priority, it will be impossible to action this important development in the law. A weakening of the oversight and accountability functions will open more room for misuse of firearms. In the same way, we wish to see the provision for disciplinary action for lost guns – especially where negligence is present – acted upon seriously. There is a need for greater political will with regard to implementing disciplinary action.

Clause 25 (ss124A & 124B)

We support this increased supervision as a necessary step toward establishing control over what seems to be a significant source of firearms on the illegal market, and an easy source for those who wish to own guns anonymously. We urge that time frames be strictly adhered to.

According to the South African Police Service's 2014 annual report, 834 firearms were lost by or stolen from the SAPS in the year 2012/2013. While we note that this is an improvement on earlier years and we applaud the SAPS' efforts to improve in this area, it is still concerning that so many firearms are lost or stolen from the police service. This loss of firearms contributes to the problem of firearms on the illegal market, but it also undermines the confidence and trust of law abiding citizens in the integrity of the gun control system.

C. Burden of proof to demonstrate 'fit and proper' status for firearms owners.

Under the Arms and Ammunition Act of 1969, the burden of proof lay primarily with the state to prove that a person was unfit to possess a firearm. Under this amendment there is a renewed and more significant shift away from this requirement, and the burden is now located very unambiguously with gun owners and with gun owner associations. That this will be tested over the entire period of owning

the firearm is a positive provision. We believe that the strengthening of responsibility in this regard is a necessary means of further reducing the illegal, irresponsible and inexperienced handling of firearms which is a proximate cause of so many of the dangers associated with firearms. We agree that firearms, because of their destructive capabilities, should be made more difficult to obtain, and that there needs to be increased clarity as to the purpose for their possession.

Clause 2 (s8)

We support the strengthening of the requirement that the chairperson of an accredited association has to verify and motivate applications by its members with regard to the use, purpose and category of the firearm applied for. The Registrar should also be in a position to verify this information independently. We hold that the tighter the control and the more input from responsible persons, the more likely it is that inappropriate certification and usage will be ruled out.

Clause 10 (s24)

We agree with the idea that, as a further mechanism for strengthening accountability, there should be a penalty imposed if the application for the renewal of the licence is not done within the stipulated period.

D. Concerns

Clause 6 (s15)

Despite the fact that this section is to be understood as a technical amendment, we share a widespread concern that permission to increase the number of firearms which any owner might possess, adds to the number of firearms in circulation rather than helping to effect a decrease. Control over the number of firearms permitted to any owner is regarded as a key aspect of strong gun control. Catholic Social Teaching insists on a principle of sufficiency, which holds that harmful or dangerous objects, even if deemed to be necessary, should be limited to the lowest number sufficient for the purposes for which they are needed.

Clause 3 (s5)

The intended emphasis on restricting the number of firearms and the numbers of people possessing them seems to be contradicted by this extension of the reasons for people under the age of 21 to receive exemptions for the ownership of firearms. This is generally regarded as a high risk category, and we would have hoped that there would have been a tightening up, rather than expansion of categories of persons in this age group having access to guns.

E. Some additional recommendations

We wish to make three additional recommendations.

Clause 38 (s9)

The widespread scourge of domestic violence, and the danger that it occasions, will be increased if abusive people have access to firearms. We believe that any convictions under the Domestic Violence Act should disqualify the perpetrator from receiving a licence for a firearm. We believe that those falling in such a category are high risk and should not be in possession of firearms which will increase their likelihood of indulging in antisocial, indeed lethal, behaviour.

Clause 39 (s9)

We would wish to have this section nuanced, with the notion of ‘problematic use’ of these substances being made a ground of exclusion. It is our opinion, especially gained from pastoral experience, that problematic use is as dangerous as dependency and should form part of the criteria for exclusion. We believe that there is a very thin dividing line between problematic and dependent behaviour, and that we should err on the side of caution by using an expanded definition so as to lessen the potential for harm.

Conclusion

In the final analysis, we need to note that gun control, while absolutely admirable, will not alone bring peace. Peace is always the fruit of justice. Advocacy in this domain must take place alongside strident efforts to respect the dignity of all; through the quest for justice, so that each receives their due; and together with the promotion and defence of human rights and a vision of life geared to the common good. When there is a synergy in this regard, we will stand our best chance for a sustainable peace.

Peter-John Pearson
Director

31 March 2015

¹ Pontifical Council for Justice and Peace ‘The International Arms Trade’ Vatican City, 1994.

² ‘The catechism of the Catholic Church’ Liberia Editrice Vaticana. Vatican City, 1994.

³ Pontifical Council for Justice and Peace. ‘Compendium of the Social Doctrine of the Church.’ Nairobi Paulines Publications Africa, 2004.

⁴ USCCB Pastoral Statement: “Responsibility, Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal Justice’ 5 November, 2000.